

Jose DeCastro
1258 Franklin St.
Santa Monica, CA 90404
(310) 963-2445
chille@situationcreator.com

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSE DECASTRO

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; STATE OF NEVADA;
BRANDEN BOURQUE; JESSE
SANDOVAL; ERLAND TORREY;
CHADLY DINGLE; BRANDON
SORENSEN; CLINTON DOOLITTLE;
CITCO; and DOES 1 to 50, inclusive

Defendants.

) Case No.: 2:23-CV-00580

) **SECOND AMENDED COMPLAINT
FOR DAMAGES AND DEMAND FOR
JURY TRIAL**

) (Leave Granted 10/24/2023 ECF No. 45)

) **28 U.S. Code § 2403 Certification**
) **Requested by Clerk** RE NRS 197.190

INTRODUCTION

1. Plaintiff, a member of the press who specifically records police interactions was recording a police officer interaction outside of a Rollin Smoke BBQ in Southwest Las Vegas, Nevada. Five Las Vegas Metropolitan Police officers, including the officer that he was recording, under the guise of protecting the privacy of another citizen in public, without reasonable suspicion that the Plaintiff was involved in any criminal activity, did interfere with, and rob Plaintiff of his liberties while he was in a place that he was lawfully allowed to be, while

1 Plaintiff was performing constitutionally protected activities. The officers detained Plaintiff,
2 handcuffed, arrested him without a warrant, battered, tortured, forced him into the back of a
3 patrol vehicle, and searched him and his possessions. None of the defendants intervened to
4 prevent the unreasonable detention, arrest, battery, torture, or searches.

5 2. Sadly, the abusive treatment Plaintiff endured for merely asserting his rights and
6 recording the police while brown is not unusual or surprising. Although the citizens and
7 legislators of Nevada want police reform, these defendants think that they can continue their old
8 ways. These defendants continue to enforce their feelings instead of the law and continue to
9 force respect instead of earning it. This civil rights action seeks to vindicate Plaintiff's
10 constitutional and statutory rights and hold the officers and their department accountable for
11 biased policing practices and the policies (or absence of policies) that resulted in these practices.

12 **PARTIES**

13 3. Plaintiff Jose DeCastro ("DeCastro") is an adult over the age of eighteen, a member of
14 the press, and at all times relevant hereto, was and is a resident of the State of California.
15 DeCastro is a non-white person of color of Colombian-Jewish descent.

16 4. Defendant Las Vegas Metropolitan Police Department ("LVMPD") is a quasi-
17 municipal entity and a political subdivision of the State of Nevada created and regulated by NRS
18 Ch. 258 and at all times relevant hereto, employed all of the individually named Defendants.

19 5. Defendant State of Nevada ("Nevada") is a government entity and at all times relevant
20 hereto, operates, oversees, and manages Defendant LVMPD under the color of state law.

21 6. Defendant Branden Bourque ("Bourque") is, and at all relevant times was, an officer
22 with the LVMPD. In doing the things herein alleged, Bourque was acting under the color of state
23 law and in the course and scope of his employment with Nevada. Bourque is sued in his

1 individual capacity.

2 7. Defendant Erland Torrey (“Torrey”) is, and at all relevant times was, a supervisor with
3 the LVMPD. In doing the things herein alleged, Torrey was acting under color of state law and
4 in the course and scope of his employment with Nevada. Torrey is sued in his individual
5 capacity, including in his capacity as a supervisor.

6 8. Defendant Chadly Dingle (“Dingle”) is, and at all relevant times was, an officer with
7 the LVMPD. In doing the things herein alleged, Dingle was acting under the color of state law
8 and in the course and scope of his employment with Nevada. Dingle is sued in his individual
9 capacity.

10 9. Defendant Brandon Sorenson (“Sorenson”) is, and at all relevant times was, an officer
11 with the LVMPD. In doing the things herein alleged, Sorenson was acting under the color of
12 state law and in the course and scope of his employment with Nevada. Sorenson is sued in his
13 individual capacity.

14 10. Defendant Jesse Sandoval (“Sandoval”) is, and at all relevant times was, an officer
15 with the LVMPD. In doing the things herein alleged, Sandoval was acting under the color of
16 state law and in the course and scope of his employment with Nevada. Sandoval is sued in his
17 individual capacity.

18 11. Defendant Clinton Doolittle (“Doolittle”) is, and at all relevant times was, an officer
19 with the LVMPD. In doing the things herein alleged, Doolittle was acting under the color of state
20 law and in the course and scope of his employment with Nevada. Doolittle is sued in his
21 individual capacity.

22 12. LVMPD Officer Citco (“Citco”) is, and at all relevant times was, an officer with the
23 LVMPD. In doing the things herein alleged, Doolittle was acting under the color of state law and

1 in the course and scope of his employment with Nevada. Doolittle is sued in his individual
2 capacity. Plaintiff does not know the full true name of Cisco, but he is an LVMPD officer that
3 identified himself as “Cisco 17673” at the incident in the January 14, 2023 video.

4 13. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of Defendants sued herein as Does 1-50, inclusive, are unknown to Plaintiff, who therefore sues
6 said defendants by such fictitious names. Plaintiff will amend this Complaint to show the true
7 names and capacities if and when the same are ascertained. Plaintiff is informed and believes,
8 and thereon alleges, that said Defendants, and each of them, are responsible in some manner for
9 Plaintiff’s damages as herein alleged. Each reference in this complaint to “defendant”,
10 “defendants”, “Defendants”, or a specifically named defendant also refers to all “Doe”
11 defendants. Does 1 – 5 are believed to be officers of the LVMPD, Does 6 – 25 are believed to be
12 employees of the LVMPD, Does 26 – 50 are believed to be employees of the state of Nevada.

13 14. Plaintiff is informed and believes and thereon alleges that each of the Defendants
14 sued herein was negligently, wrongfully, and otherwise responsible in some manner for the
15 events and happenings as hereinafter described, and proximately caused injuries and damages to
16 Plaintiff. Further, one or more Doe Defendants was at all material times responsible for the
17 hiring, training, supervision, and discipline of other defendants, including the individually named
18 and Doe Defendants.

19 15. Plaintiff is informed and believes and thereon alleges that at all times herein
20 mentioned each of the Defendants, including all defendants sued under fictitious names, was the
21 agent and/or employee of each of the other Defendants, and in doing the things hereinafter
22 alleged was acting within the course and scope of such agency and employment.

23 16. Plaintiff is informed and believes and thereon alleges that at all times herein

1 mentioned each of the Defendants, including all defendants sued under fictitious names, was the
2 agent and/or employee of each of the other Defendants, and in doing the things hereinafter
3 alleged, was acting within the course and scope of such agency and employment.

4 17. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
5 was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator,
6 an/or alter ego of the remaining Defendants, and in doing the things herein alleged, was acting
7 within the course and scope of that relationship. Plaintiff is further informed and believes, and
8 thereon alleges, that each of the Defendants herein gave consent, aid, and assistance to each of
9 the remaining Defendants, and ratified and/or authorized the acts or omissions of each Defendant
10 as alleged herein, except as may be hereinafter otherwise specifically alleged. At all material
11 times, each Defendant was an integral participant, jointly engaged in constitutionally violative,
12 unlawful, and/or tortious activity, resulting in the deprivation of Plaintiff's constitutional rights
13 and other actionable harm.

14 18. At all material times, each Defendant acted under color of the laws, statutes,
15 ordinances, and regulations of the State of Nevada.

16 JURISDICTION AND VENUE

17 19. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
18 1343(a)(3)-(4) because it arises under the Constitution and laws of the United States, as it is
19 being brought to obtain compensatory and punitive damages for the deprivation, under color of
20 state law, of the rights of a citizen of the United States that are secured by the United States
21 Constitution, pursuant to 42 U.S.C. §§ 1981, 1983, and 1988. This Court has supplemental
22 jurisdiction over the claims arising under Nevada law pursuant to 28 U.S.C. § 1367(a).

23 20. This Court is the proper venue pursuant to 28 U.S.C. § 1391(b)(2) because the events

1 giving rise to the claims occurred in the County of Clark in Nevada which is in the U.S. District
2 of Nevada.

3 **GENERAL FACTUAL ALLEGATIONS**

4 21. On October 3, 2018, the Las Vegas Police Protective Association, of which
5 Defendants are members, released a training video titled “Videotaping Officers and Being
6 Legally Smart”. In the video, David Roger (“Roger”), General Counsel, says, “There are also
7 people that want to bait officers into arresting them and scoring big settlements in civil cases.”
8 Roger further says, “Don’t take the bait. Be legally careful. If they aren’t obstructing your
9 investigation; if they’re not on top of you; if they’re not putting you in danger; they’re merely
10 video taping you, you have no basis to arrest them. If they aren’t obstructing your investigation,
11 then try to ignore them. I understand it’s difficult.” He goes on to say “You have an absolute
12 right to tell them to stay out of the immediate area so that they are not a distraction or danger to
13 you. However, if they walk a distance away and they continue video taping you, there’s nothing
14 legally you can do, and if you force the issue and arrest them, you could be sued civilly.”

15 22. Nevada passed police reform statute NRS 171.1233 in 2020, preventing police
16 officers from interfering with a person’s recording of a law enforcement activity, including,
17 without limitation, by: intentionally preventing or attempting to prevent the person from
18 recording a law enforcement activity, or threatening the person for recording a law enforcement
19 activity, or commanding that the person cease recording a law enforcement activity when the
20 person was nevertheless authorized by law to record the law enforcement activity, or stopping,
21 seizing or searching the person because he or she recorded a law enforcement activity, or
22 unlawfully seizing property or instruments used by the person to record a law enforcement
23 activity, unlawfully destroying or seizing any recorded image of a law enforcement activity or

1 copying such a recording of a law enforcement activity without the consent of the person who
2 recorded it or obtaining approval from an appropriate court.

3 23. On February 25, 2021, the Las Vegas Police Protective Association, of which
4 Defendants are members, released an update to the above training video titled “Recording
5 Officers”. In the video, Roger says, “In our last special session, the legislature passed NRS
6 171.1233 as part of police reform. And this statute guarantees citizens an absolute right to
7 videotape police officers, and police officers are not allowed to do anything to stop their
8 recording or to seize their cameras. With one exception. And the exception is that a person
9 recording your activity can not interfere with your investigation.” He goes on to say, “Really that
10 means, that they can’t physically get within your space which jeopardizes your safety or another
11 citizen’s safety.” He finishes with “So the takeaway from this is obviously if people are
12 videotaping you, you can’t do anything to them. However, your safety, a citizen’s safety comes
13 first, and you can order a person to give you more space in order for you to do your job.”

14 24. The LVMPD has a written “Misdemeanor Arrest Policy” that a person will not be
15 arrested for a misdemeanor unless “There is a reasonable cause to believe that the violation for
16 which the person is arrested will continue. However, an arrest shall not be made in lieu of a
17 citation on the basis of a mere speculation that the person might commit a new crime upon
18 release, whether of the same or of a different nature, i.e., offense such as shoplifting may be
19 repeated at some time in the future, but there is no reasonable certainty that this will occur.
20 Therefore, in the absence of other exceptions to the citation criteria, shoplifters and most other
21 misdemeanants will be cited.”

22 25. The LVMPD has a written “De-escalation Policy” that says, “Officers will make
23 efforts to control a confrontation and not allow it to escalate.” Additionally, Nevada passed

1 police reform statute NRS 171.1455 in 2020, requiring de-escalation techniques and alternatives
2 to the use of force whenever possible.

3 26. The LVMPD has a written “Use of Force Policy” that says officers will only use a
4 level of force that is objectively reasonable to safely accomplish a lawful purpose and to
5 continuously reassess their response and adjust any use of force accordingly based upon the level
6 of resistance encountered. Further, any officer present, and observing another officer using force
7 that is clearly beyond what is justified or objectively reasonable under the circumstances will
8 intercede to prevent the use of unreasonable force. Additionally, Nevada passed police reform
9 statute NRS 193.355 in 2020, requiring officers to intervene when a “peace officer observes the
10 use of physical force that is not justified or reasonably should have observed the use of physical
11 force that is not justified”.

12 27. The LVMPD has a written “Interactions with Public Policy” that says “Members will
13 be courteous, patient and respectful in dealing with the public. Members should avoid answering
14 questions in a short and abrupt manner and should not use harsh, course, violent, profane,
15 insolent, indecent, suggestive, sarcastic, or insulting language. Members should maintain
16 professional demeanor regardless of the provocation.”

17 28. The Nevada Supreme Court ended qualified immunity as a defense to violations of
18 the state constitution in *Mack v. Williams*, 522 P.3d 434 (Nev. 2022).

19 29. The Nevada courts have found that discretionary immunity under state law does not
20 apply to decisions regarding the amount of force to use or acts taken in the violation of the
21 constitution. *Vasquez-Brenes v. Las Vegas Metro. Police Dep't*, 51 F. Supp. 3d 999, 1013 (D.
22 Nev. 2014); *Mirmehdi v. United States*, 689 F.3d 975, 984 (9th Cir. 2011); *Nurse v. United*
23 *States*, 226 F.3d 996, 1002 (9th Cir. 2000); *Falline v. GNLV Corp.*, 107 Nev. 1004, 823 P.2d

888, 892 n.3 (Nev. 1991); *Davis v. City of Las Vegas*, 478 F.3d 1048, 1060 (9th Cir. 2007).

30. As of 2017, the constitutional right to be free from retaliation while recording police activity in a public place has been clearly established in the Ninth Circuit. *Redmond v. San Jose Police Dep't*, No. 14-cv-02345-BLF, 2017 U.S. Dist. LEXIS 190087 (N.D. Cal. Nov. 16, 2017); *Naveed v. City of San Jose*, No. 15-cv-05298-PSG, 2016 U.S. Dist. LEXIS 67570 (N.D. Cal. May 23, 2016); *Addison v. City of Baker City*, 758 F. App'x 582, 583 (9th Cir. 2018); *Askins v. Dep't of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018).

31. As of 1995, the constitutional right to film matters of public interest has been clearly established in the Ninth Circuit. *Fordyce v. City of Seattle*, 55 F.3d 436, 439 (9th Cir. 1995).

32. As of 1990, the constitutional right to be free from retaliation for their protected speech has been clearly established in the Ninth Circuit. *Ford v. City of Yakima*, 706 F.3d 1188, 1195 (9th Cir. 2013) (citing *Duran v. City of Douglas*, Ariz., 904 F.2d 1372 (9th Cir. 1990)).

33. As of 1992, the constitutional right to be free from a warrantless arrest without probable cause has been clearly established in the Ninth Circuit. *Caballero v. City of Concord*, 956 F.2d 204, 206 (9th Cir. 1992); *Gasho v. United States*, 39 F.3d 1420, 1429 (9th Cir. 1994); *Beck v. City of Upland*, 527 F.3d 853, 871 (9th Cir. 2008).

34. Dismissal based on qualified immunity is not appropriate unless it can be determined based on the complaint alone that qualified immunity applies. *O'Brien v. Welty*, 818 F.3d 920, 936 (9th Cir. 2016). The qualified immunity inquiry is a fact-specific analysis and requires knowledge of all of the material facts of the specific context of the case. *Saucier v. Katz*, 533 U.S. 194, 202, 121 S. Ct. 2151, 150 L. Ed. 2d 272 (2001) (test set forth in *Saucier* distinguished in *Pearson*, 555 U.S. at 236). Qualified immunity is usually inappropriate at the dismissal stage, even when construing the facts in the light most favorable to the non-moving party, because the

1 court is often without sufficient facts to make an appropriate inquiry. See *Morley v. Walker*, 175
2 F.3d 756, 761 (9th Cir. 1999) (finding dismissal based on qualified immunity inappropriate
3 pursuant to Fed. R. Civ. P. 12(b)(6)).

4 35. Arizona Revised Statutes § 13-3732, a statute in Arizona making it illegal to record
5 police within 8 feet, was overturned on July 21, 2023 citing infringement against a clearly
6 established right to film police, specifically that it is not content neutral. The Court had already
7 issued an injunction against enforcement of the law as of September, 2022. *Ariz. Broads. Ass'n v.*
8 *Brnovich*, 626 F. Supp. 3d 1102 (D. Ariz. 2022).

9 36. On January 14, 2023, Plaintiff premiered a YouTube video where he recorded a
10 police interaction in a publicly accessible private parking lot between a man and his passenger,
11 who are both people of color, and approximately five LVMPD officers. Officer “Cisco” was
12 aware of Plaintiff’s camera and stood blocking the camera, in violation of Plaintiff’s rights and
13 NRS 171.1233. The officers were searching the man’s truck because he’d allegedly not stopped
14 long enough at a red light before turning right. The officers detained the driver and his passenger
15 for over 40 minutes, where the police kept asking unrelated questions. Plaintiff never stood
16 between a police vehicle and anyone detained nor between a police officer and anyone detained.
17 Plaintiff was not arrested. It can be inferred based on past police conduct that the two men of
18 color were not arrested due to Plaintiff recording the interaction. On my channel, this video got
19 over 250,000 views. On larger channels, the video was viewed over 1,000,000 times.

20 37. Since January 14, 2023, LVMPD officers communicated with each other about
21 Plaintiff’s video and Plaintiff’s whereabouts, as evidenced by multiple incidents of LVMPD
22 officers asking cop watchers if they were Plaintiff. Some of these incidents have been recorded
23 by cop watchers and published on YouTube.

1 38. The tracking and searching for Plaintiff is circumstantial evidence that justifies an
2 inference, and discovery will reveal, that Defendants conspired to unlawfully arrest and harm
3 Plaintiff.

4 39. On February 25, 2023, Plaintiff premiered a YouTube video where he recorded a
5 police interaction in a publicly accessible private Walmart parking lot at 4505 W. Charleston
6 Blvd., Las Vegas, Nevada. The interaction was between two police officers and a woman in
7 handcuffs. One of the officers radioed in “Control, be advised, we have a first amendment
8 auditor out here at our location.” Plaintiff never came between a police vehicle and anyone
9 detained nor between a police officer and anyone detained. Plaintiff was asked to step back, and
10 Plaintiff stepped back. Additionally, the woman in handcuffs said that she wanted to make a
11 statement for the camera and explained how she offered to help a homeless person in the parking
12 lot who was dehydrated and then was detained in handcuffs for it. Additionally, a paramedic
13 politely asked Plaintiff to step away so that he could have a private conversation with his patient,
14 the dehydrated homeless person. Plaintiff consented and moved away. Plaintiff was not arrested,
15 even though he said to Officer E. Lajoie “Shoo, little doggie.” There were multiple people in the
16 parking lot near the officers, including the woman in handcuffs, that were not arrested. It can be
17 inferred based on past police conduct that the innocent woman in handcuffs was not arrested due
18 to Plaintiff recording the interaction.

19 40. At approximately 4:30pm on March 15, 2023, Plaintiff was in a publicly accessible
20 private parking lot outside of a Rollin Smoke BBQ at 4115 S. Grand Canyon Dr., Las Vegas,
21 Nevada. Plaintiff witnessed what looked to him like a consensual police interaction between a
22 woman and Bourque. Bourque was sitting in a Ford police interceptor with the LVMPD logo on
23 it and the number 19084. Plaintiff does not know the woman’s name but will call her “Jane”.

1 41. Plaintiff started recording the consensual police interaction on one of his phones,
2 making sure not to become between Bourque and Jane or the police interceptor and Jane.

3 42. Within six seconds, Bourque left his vehicle, got Plaintiff's attention, and told
4 Plaintiff to back up, and Plaintiff stepped back.

5 43. Bourque said "She deserves privacy. This is not your business." Bourque had stopped
6 giving Plaintiff commands, and Plaintiff inferred that Bourque had conceded and was now happy
7 with the amount of space that he had to work. Plaintiff said, "I'm a member of the press, go get
8 in your car and do your job little doggy."

9 44. Unlike Officer E. Lajoie, Plaintiff witnessed, and the camera shows that Bourque
10 became visibly upset and came after Plaintiff. Based on the fact that Plaintiff had just expressed
11 his speech, it can be reasonably inferred that it was in direct retaliation for Bourque's hurt
12 feelings due to Plaintiff's exercise of his free speech rights. Bourque said "You are being
13 detained" to the Plaintiff.

14 45. Bourque told Jane to leave and continued walking aggressively toward Plaintiff as if
15 to use force, and Plaintiff took a step back to prevent any physical confrontation.

16 46. Plaintiff continued to protest Bourque putting his hands on him unnecessarily, but
17 Bourque was patently interested in manhandling Plaintiff in some way, and said "Listen, I *am*
18 going to put my hands on you." Bourque did indeed intentionally and offensively contact
19 Plaintiff with his hands.

20 47. While Plaintiff was firm in his verbal tone, he never screamed or yelled, he never
21 threatened Bourque, and never said or did anything that would have led a reasonable law
22 enforcement officer to fear for their safety or to suspect that Plaintiff committed, or was planning
23 on committing, any crime. There were multiple people in the parking lot closer to Bourque than

1 Plaintiff was that were not arrested. Plaintiff observed no evidence that Bourque was engaged in
2 the discharge of official powers or duties. Plaintiff was not given any due notice.

3 48. Plaintiff asked for a supervisor and while continuing to protest against illegal
4 detainment and against the use of unnecessary force, Plaintiff offered to walk to Bourque's
5 vehicle which seemed to be where the officer wanted to illegally detain Plaintiff. As soon as
6 Plaintiff reached the vehicle, he was forcefully grabbed, even though Plaintiff was cooperating
7 fully, and told that he was being placed under arrest. Plaintiff witnessed no evidence of an
8 investigation during the detention. Plaintiff was well over 8 feet away, the distance that a Court
9 in this circuit (§ 35) ruled was as a distance within the clearly established right to be when
10 recording police, and Plaintiff was much further away than 8 feet.

11 49. To make it clear to the illogical, failing to move back an arbitrary distance, when a
12 member of the press has the right to be close enough to gather the news, is not obstruction. Being
13 too close to an officer so that he can't safely perform his duties could be obstruction, given
14 willfulness and due notice, but that did not occur and there is and will be no evidence of it. If
15 Plaintiff obstructed by being too close for the officer to safely perform his duties, maintaining
16 that minimal distance is the action of the obstruction, not failing to move back further. Similarly
17 situated individuals would be ones at a similar distance, not necessarily ones that failed to move
18 back further. Although when an officer makes it clear to a person that there is a perimeter that
19 the officer needs that person outside of to safely conduct an investigation, and tells that person
20 that they will be arrested if they don't leave that perimeter, it may be due notice. However, when
21 an officer tells a person that they will be arrested for obstruction if they don't respect the privacy
22 of someone in public, that is not due notice. That is abuse of process.

23 50. Plaintiff was arrested without probable cause and without a warrant, in violation of

1 the misdemeanor arrest policy of the LVMPD, and immediately after exercising his first
2 amendment rights, showing a direct causal relationship. Additionally, Bourque did not use any
3 de-escalation, in violation of LVMPD policy, even if he felt provoked, according to the LVMPD
4 interactions with public policy.

5 51. Plaintiff was patted down and placed in handcuffs. Plaintiff made Defendants aware
6 of a prior shoulder injury, and Plaintiff was put in two pairs of handcuffs to adhere to his medical
7 needs. Although later during the encounter, Sandoval would yank and squeeze forcefully on
8 Plaintiff's arm, over and over and over, hurting his arm and shoulder unnecessarily.

9 52. Plaintiff was soon surrounded by four different police officers, now Defendants,
10 where he continued to protest that they had no valid reason to detain or arrest him. The video of
11 the incident shows Bourque ask Plaintiff if he is on drugs where Bourque says that he is asking
12 because of the color of Plaintiff's skin. Plaintiff said that he did not have a criminal record and
13 Bourque entered his vehicle to type up a report.

14 53. Soon after, Sandoval demanded that Plaintiff look only straight ahead and when
15 Plaintiff did not immediately comply, Sandoval began squeezing Plaintiff's elbow, placing
16 pressure on Plaintiff's ulnar nerve. Specifically, Sandoval intentionally and deliberately and
17 needlessly pressed his thumb into Plaintiff's ulnar nerve to cause pain and permanent damage.

18 54. Plaintiff complained about the pain and protested against needing to look in a specific
19 direction to have an arrest effectuated on him.

20 55. Sandoval said that it was within their policy to use pain compliance on ulnar nerves
21 for people in their custody that did not comply with random commands that would grant
22 complete dominion over another human being; from which way Plaintiff's head could turn, to his
23 right to use speech, or when he can blink.

1 56. Plaintiff did experience severe pain and paresthesia from the compression of his ulnar
2 nerve by Sandoval.

3 57. When Plaintiff pleaded for help from the surrounding Defendant officers, they
4 completely ignored Plaintiff. Plaintiff told them, “You’re going to be sued for Failing to
5 intervene. I’m sitting here telling you this man is torturing me. Please ask him to stop.” Plaintiff
6 was ignored by all sworn peace officers on the scene, who are now Defendants.

7 58. Plaintiff’s elbow was squeezed for approximately fifteen (15) minutes in total before
8 Plaintiff’s pain tolerance forced him to move his elbow away from Sandoval.

9 59. At some point, Defendant Torrey, the supervisor, arrived on the scene and authorized
10 the Defendants’ behavior as being within their policy. Torrey then stated that Plaintiff should be
11 arrested to discourage Plaintiff’s behavior, which included recording the police and exercising
12 free speech.

13 60. All the Defendants on the scene knew that there was no reasonable suspicion or
14 probable cause to suspect Plaintiff of any crimes, but wrongfully believed that they were justified
15 in detaining Plaintiff for assertion of his civil rights and for refusing to cooperate with the
16 Defendants’ feelings and ridiculous unreasonable demands on a law-abiding citizen based simply
17 on their archaic abusive police practices and their code of silence, and not reason or statute.

18 61. Bourque engaged in profiling against members of the press when he stated that First
19 Amendment Auditors are known for dropping their phone, pulling out guns and shooting at
20 officers, which is preposterous and provably false.

21 62. Sandoval said that Plaintiff needed to be patted down again. Plaintiff protested that
22 he’d already been patted down by two officers. Sandoval then spread Plaintiff’s legs
23 uncomfortably wide and purposely and maliciously, and with significant force, struck Plaintiff in

1 the testicles with what felt like a closed fist. Plaintiff yelled in pain, "I can't believe you just hit
2 me in the nuts!"

3 63. Plaintiff was forcibly placed into a police vehicle by Defendants who pulled the seat
4 belt as tight as they could, knocking the air out of the Plaintiff. Plaintiff again pleaded for help
5 from surrounding officers, but he was ignored again.

6 64. Sorenson made statements that attempted to get Plaintiff arrested for NRS 202.487
7 for having his dog in a vehicle, even though Plaintiff's animal was not in unsafe conditions.
8 Plaintiff was searched and transported to the Clark County Jail where he would not be formally
9 charged, but only released with citations, approximately five hours after the incident began.

10 65. The officers' actions left Plaintiff in the position where he had to pay for a ride back
11 to his vehicle and did pay monies for such a ride. On the arm that Defendant squeezed, Plaintiff
12 was left with a severe bruise in his elbow area, continues to have paresthesia in his little finger
13 and thumb, and requires ongoing medical care. Almost a month after the incident, Sorenson
14 continued to harass Plaintiff by warning him against violating NRS 202.487 although Plaintiff
15 has never left his pet in unsafe conditions.

16 66. As a result of the Defendants' actions, Plaintiff suffered a deprivation of his rights
17 and liberties, sustained physical injuries, and suffered physical pain, mental suffering, emotional
18 distress, fear, embarrassment, and other general damages in an amount to be proven at trial.

19 67. At no time during the encounter with Defendants did Plaintiff do or say anything that
20 would put a reasonable officer in fear of his or her safety.

21 68. Following the incident, Bourque claimed in a written incident report that the reason
22 why Plaintiff was arrested was for engaging with a detained driver, refusing to give an officer
23 reasonable space to work, and refusing to obey lawful commands after being advised that he was

1 detained. A detained person does not have to obey random commands and their rights are only
2 limited as to leaving. A police officer's feelings about lawful behavior must be weighed against a
3 citizen's rights. The Defendants' behavior did not follow LVMPD's Use of Force policy and
4 Interactions With the Public policy.

5 69. The written report by Bourque also claimed:

6 Because DeCastro was physically uncooperative with officers, admitted to being
7 in trouble numerous times in the past for similar reasons, and would not even
8 allow officers to explain to him why he was detained or placed in handcuffs, we
9 determined that he was not a good candidate for a citation and release. Because of
DeCastro's actions it was clear that his criminal behavior would continue in the
area if police did not act.

10 70. Plaintiff did not admit to "being in trouble numerous times" but said the opposite.
11 The facts in the incident report contradict the video and were either fabricated or merely
12 pretextual. Even if the facts set forth in Defendant Bourque's report were true (which the video
13 evidence disputes), those facts still did not give rise to a reasonable suspicion to detain Plaintiff
14 (Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868 (1968)), and certainly did not furnish probable cause
15 to arrest Plaintiff. Plaintiff stated early in the encounter that he had no criminal record, and there
16 wasn't any criminal behavior. At that point, a reasonable officer would have left the Plaintiff
17 alone. Bourque never told Plaintiff that there was an investigation or that he was interfering with
18 it. Rather, Bourque only demanded that Plaintiff respect Jane's privacy in public. Defendant
19 Bourque seemed only intent on preventing Plaintiff from recording the police interaction and
20 retaliating because Bourque's feelings were hurt by Plaintiff's free speech. In addition, there
21 appears to be a conspiracy by Defendants to arrest Plaintiff because he has recently covered
22 several stories about LVMPD that went viral on the internet.

23 71. Plaintiff is informed and believes, and intends to prove after conducting relevant

1 discovery, that Defendants' actions in detaining and/or arresting Plaintiff, using force on him,
2 and illegally searching him and his belongings, was motivated largely or entirely by the
3 following (1) Plaintiffs' position as a member of the press that records police interactions for
4 accountability, and that was engaging in this First Amendment protected activity (2) Plaintiff's
5 negative viewpoint of police who all contribute or hold silent (the thin blue line) about police
6 brutality, (3) The color of Plaintiff's skin, and/or (4) Plaintiffs' verbal protestations of the
7 Defendants' actions and Plaintiff's accusation that the Defendants were harassing him. Indeed, as
8 shown on the video footage captured by Plaintiff's cell phone and the video footage Plaintiff
9 expects to obtain from the Defendants' body cams, Plaintiff did not do or say anything that
10 would have provided reasonable suspicion or probable cause for the detention and/or arrest,
11 excessive use of force, and subsequent searches. Therefore, there is a strong inference that the
12 Defendants were in fact motivated by one or more of the four factors enumerated above.

13 72. Individual Defendants submitted police reports that contradict the video evidence,
14 including fabricated testimony. The combination of the various Defendants coordinated perjury
15 and fabrication shows a strong inference of a plan by the Defendants to deprive Plaintiff of his
16 rights under the first and fourteenth amendments.

17 73. Plaintiff has recorded approximately 10 police encounters of the LVMPD after the
18 incidents in this complaint where Plaintiff has not been arrested. Plaintiff would have recorded
19 more encounters if he had not feared of again being unlawfully arrested for exercising his rights.
20 LVMPD closed investigations into the incidents in this complaint saying that no officers violated
21 policies, even where it is clear that they violated their de-escalation policy, their use of force
22 policy, their misdemeanor arrest policy, their training on dealing with people recording the
23 police, and their interactions with public policy. The officers also violated several statutes,

1 including NRS 171.1233, NRS 171.1455, and NRS 193.355.

2 **COUNT 1**

3 74. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
4 allegations of said paragraphs as though expressly set forth at length at this point.

5 75. Arrest without probable cause or a warrant under the Nevada Constitution, U.S.
6 Constitution, federal statute, state statute, and common law, against Bourque, Sandoval, Torrey,
7 Dingle, Sorenson, Doolittle, and Does 1 to 5.

8 76. The factual allegations show that Plaintiff was intentionally deprived of his liberty, that
9 he was aware of his confinement, he did not consent to the confinement, and the officers lacked
10 privilege or a warrant to confine him. Plaintiff was not willfully hindering, delaying, or
11 obstructing any officer in their official duties. Plaintiff was simply standing there exercising his
12 First Amendment rights by filming the police in public. Finally, Plaintiff did nothing to resist
13 arrest, and in fact continued to voice his compliance. Defendants only needed to give him clear
14 verbal commands and did not need to touch him for his compliance. Further, even if Plaintiff is
15 found guilty of obstruction and resisting, it's only as a direct and proximate result of statutes
16 being enforced or codified contrary to the civil rights guaranteed by the United States
17 Constitution. Specifically, the statutes are being used in a non-content neutral manner to interfere
18 with Plaintiff's clearly established right to record the police in public.

19 77. Plaintiff was harmed as a direct and proximate result by being deprived of his liberty
20 for a period of time, being unable to do what he wanted or go where he wanted. Plaintiff also
21 suffered mental injuries including emotional distress, fear, and embarrassment.

22 78. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
23 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and

1 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
2 and deter such conduct.

3 **COUNT 2**

4 79. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
5 allegations of said paragraphs as though expressly set forth at length at this point.

6 80. Unreasonable search and seizure under the Nevada Constitution, U.S. Constitution,
7 federal statute, state statute, and common law, against Bourque, Sandoval, Torrey, Dingle,
8 Sorenson, Doolittle, and Does 1 to 5.

9 81. The factual allegations show that Plaintiff was arrested without probable cause and
10 without a warrant, and so the subsequent search of Plaintiff's person, including pockets, wallet,
11 and cell phone was a violation.

12 82. Plaintiff was harmed as a direct and proximate result by the violation of his privacy of
13 the contents of his person, by the negative psychological and emotional impact on his rights
14 being violated and the chilling effect that this had on the future exercise of his rights for fear of
15 further abuse.

16 83. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
17 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
18 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
19 and deter such conduct.

20 **COUNT 3**

21 84. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
22 allegations of said paragraphs as though expressly set forth at length at this point.

23 85. Excessive force in the course of an arrest under the Nevada Constitution, U.S.

1 Constitution, federal statute, state statute, and common law, against Bourque and Sandoval.

2 86. The factual allegations show that defendant Bourque unnecessarily used force against
3 Plaintiff while he was being arrested and that defendant Sandoval unnecessarily used force
4 against Plaintiff after he was already in custody.

5 87. Plaintiff was harmed as a direct and proximate result by feeling physical pain and
6 discomfort, negative psychological and emotional impact of being battered and the chilling effect
7 that this had on the future exercise of his rights for fear of further abuse. Plaintiff is still suffering
8 physical pain and discomfort from the injuries that Sandoval caused him during the incidents in
9 the complaint.

10 88. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
11 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
12 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
13 and deter such conduct.

14 **COUNT 4**

15 89. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
16 allegations of said paragraphs as though expressly set forth at length at this point.

17 90. Defamation under the Nevada Constitution, U.S. Constitution, federal statute, state
18 statute, and common law, against Bourque, Sandoval, Torrey, Dingle, Sorenson, Doolittle, and
19 Does 1 to 5.

20 91. The factual allegations show that against Bourque, Sandoval, Torrey, Dingle, Sorenson,
21 Doolittle, and Does 1 to 5 did share false police reports with third parties. The totality of the facts
22 further indicate that the defamation was done deliberately and maliciously and that the
23 defendants knew that the defamatory statements were about Plaintiff and were asserted as the

1 truth even though they were false.

2 92. Plaintiff was harmed as a direct and proximate result by this damaging of his
3 reputation, which directly resulted in 1) him being cited; and 2) criminal prosecution. The
4 defamation also had a direct and proximate negative psychological and emotional impact on
5 Plaintiff.

6 93. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
7 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
8 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
9 and deter such conduct.

10 **COUNT 5**

11 94. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
12 allegations of said paragraphs as though expressly set forth at length at this point.

13 95. Chilling of First Amendment under the Nevada Constitution, U.S. Constitution, federal
14 statute, state statute, and common law, against all defendants.

15 96. The totality of the circumstances in the factual allegations shows that corruption was
16 afoot in Las Vegas and that Plaintiff's investigative journalism was bringing the corruption to
17 light. As a result, the perpetrators and their supporters conspired and did take actions that were
18 intended to and did chill Plaintiff's First Amendment rights. Specifically, but not limited to,
19 following Plaintiff, tracking Plaintiff's movements, defaming him, attempting to find pretextual
20 reasons for his arrest, blocking his camera, arresting him, and prosecuting him. This resulted in
21 intimidation and direct restriction of Plaintiff's movement and freedoms to petition the
22 government, perform functions of the press, and to speech.

23 97. Plaintiff was harmed as a direct and proximate result by having to refrain from

1 exercising his rights, the government suppressing dissent, and loss of public participation.
2 Plaintiff also experienced, as a direct and proximate result, the negative psychological and
3 emotional impact of the abuse and the chilling effect that this had on the future exercise of his
4 rights for fear of further abuse.

5 98. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
6 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
7 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
8 and deter such conduct.

9 **COUNT 6**

10 99. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
11 allegations of said paragraphs as though expressly set forth at length at this point.

12 100. First Amendment retaliation under the Nevada Constitution, U.S. Constitution, federal
13 statute, state statute, and common law, against all defendants.

14 101. The facts show that while exercising his first amendment rights recording police under
15 freedom of speech and freedom of press and protesting against police misconduct, Plaintiff did
16 not do or say anything that would have provided reasonable suspicion or probable cause for the
17 arrest, excessive use of force, and subsequent searches. The totality of the circumstances show
18 that the defendants were in fact motivated by one or more of the three factors enumerated above.
19 There were similarly situated individuals in the parking lot that had not made their views known
20 and that were not filming the police, who were not arrested. The arrest did stop Plaintiff from
21 further exercising his rights. Plaintiff's alleged illegal obstructive behavior could not have
22 continued since Bourque had Jane leave the scene, and Bourque could have left the scene as
23 well. Even if Bourque had probable cause, Plaintiff would not have been arrested because

1 officers typically exercise their discretion not to arrest in this situation. The LVMPD policy even
2 says that a person situated as Plaintiff should not be arrested, but he was arrested in retaliation
3 anyway

4 102. Plaintiff was harmed as a direct and proximate result by having to refrain from
5 exercising his rights, the government suppressing dissent, and loss of public participation.
6 Plaintiff also experienced, as a direct and proximate result, the negative psychological and
7 emotional impact of being battered and the chilling effect that this had on the future exercise of
8 his rights for fear of further abuse. Plaintiff was harmed as a direct and proximate result by being
9 deprived of his liberty for a period of time, being unable to do what he wanted or go where he
10 wanted.

11 103. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
12 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
13 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
14 and deter such conduct.

15 **COUNT 7**

16 104. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
17 allegations of said paragraphs as though expressly set forth at length at this point.

18 105. Monell Policy and Supervisor Liability claim under the Nevada Constitution, U.S.
19 Constitution, federal statute, state statute, and common law, against Torrey, and LVMPD, the
20 state of Nevada, and Does 6 - 25.

21 106. The unconstitutional actions and/or omissions Bourque, Sandoval, Torrey, Dingle,
22 Sorenson, Doolittle, Citco, and Does 1 to 5 were pursuant to the following customs, policies,
23 practices, and/or procedures of defendants Torrey, LVMPD, the state of Nevada, and Does 6 -25

1 and which were directed, encouraged, allowed and/or ratified by policymaking officials with
2 Torrey, LVMPD, the state of Nevada, and Does 6 - 25:

- 3 a. To carry out or tolerate unlawful arrests without probable cause;
- 4 b. To carry out or tolerate detentions and arrests based on citizens' exercise of
- 5 their First Amendment right to criticize and verbally protest officers' actions;
- 6 c. To use or tolerate excessive force;
- 7 d. To carry out or tolerate unlawful searches of persons and properties;
- 8 e. To carry out or tolerate discriminatory and biased policing and/or racial
- 9 profiling;
- 10 f. To carry out or tolerate unlawful seizures of property;
- 11 g. To allow officers to file false police reports.

12 107. The totality of the circumstances of LVMPD's consistent abuse of citizens including
13 Plaintiff are indicative of the existence of a written or unwritten municipal policy and minimally
14 a longstanding practice. Additionally, Torrey has admitted to arresting Plaintiff to chill the
15 further exercise of his rights. Finally, the factual allegations show that Torrey was present
16 multiple times and witnessed in the behaviors by his subordinates. Discovery will show further
17 proof.

18 108. Plaintiff was harmed as a direct and proximate result by violations a – g and those
19 harms are enumerated in the separate claims for each primary claim.

20 109. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
21 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
22 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
23 and deter such conduct.

COUNT 8

110. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the allegations of said paragraphs as though expressly set forth at length at this point.

111. Selective enforcement and unequal police action under the Nevada Constitution, U.S. Constitution, federal statute, state statute, and common law, against all individual defendants.

112. The totality of the allegations shows that defendants selectively enforced laws against people with white lips, against people with brown skin, against people that expressed criticism towards law enforcement, against those recording police interactions, and against those publicizing information on Police misconduct. The allegations also show the effect of the discrimination under the totality of the circumstances but also directly in that similarly situated individuals were not arrested. The LVMPD policy even says that Plaintiff should not be arrested, but he was arrested for the color of his skin and for exercising his first amendment rights anyway.

113. Plaintiff was harmed as a direct and proximate result by having to refrain from exercising his rights, the government suppressing dissent, and loss of public participation. Plaintiff also experienced, as a direct and proximate result, the negative psychological and emotional impact of the abuse and the chilling effect that this had on the future exercise of his rights for fear of further abuse.

114. Plaintiff was further harmed, as a direct and proximate result, by the unlawful arrest, excessive force, battery, unlawful search, and abuse of process and those harms are enumerated under those primary claims.

115. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and

1 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
2 and deter such conduct.

3 **COUNT 9**

4 116. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
5 allegations of said paragraphs as though expressly set forth at length at this point.

6 117. Battery under the Nevada Constitution, U.S. Constitution, federal statute, state statute,
7 and common law, against Sandoval.

8 118. The factual allegations show that defendant intentionally, and without consent or legal
9 justification, touched Plaintiff in a harmful and offensive manner.

10 119. Plaintiff was harmed as a direct and proximate result by feeling physical pain and
11 discomfort, negative psychological and emotional impact of being battered and the chilling effect
12 that this had on the future exercise of his rights for fear of further abuse. Plaintiff is still suffering
13 physical pain and discomfort from the injuries that Sandoval caused him during the incidents in
14 the complaint.

15 120. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
16 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
17 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
18 and deter such conduct.

19 **COUNT 10**

20 121. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
21 allegations of said paragraphs as though expressly set forth at length at this point.

22 122. Invasion of privacy under the Nevada Constitution, U.S. Constitution, federal statute,
23 state statute, and common law, against Bourque, Sandoval, Torrey, Dingle, Sorenson, Doolittle,

1 and Does 1 to 5.

2 123. During the incident giving rise to this action, Plaintiff had a reasonable expectation of
3 privacy in his personal affairs, including the contents of his personal belongings such as vehicles,
4 pockets, wallets, cell phones and other electronic devices.

5 124. In doing the things herein alleged, defendants intentionally invaded and intruded into
6 Plaintiff's personal and private affairs by searching his belongings without a warrant or other
7 legal justification.

8 125. Defendants' invasion of Plaintiff's privacy would have been offensive to any
9 reasonable person.

10 126. Plaintiff was harmed as a direct and proximate result by the violation of his privacy of
11 the contents of his person, by the negative psychological and emotional impact on his rights
12 being violated and the chilling effect that this had on the future exercise of his rights for fear of
13 further abuse.

14 127. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
15 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
16 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
17 and deter such conduct.

18 **COUNT 11**

19 128. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
20 allegations of said paragraphs as though expressly set forth at length at this point.

21 129. Negligence under the Nevada Constitution, U.S. Constitution, federal statute, state
22 statute, and common law, against all individual defendants.

23 130. The individual defendants owed Plaintiff a duty to use reasonable care in connection

1 with the parties' interactions as described herein. In particular, said defendants had a duty to
2 carefully investigate any criminal activity, to use care to avoid subjecting Plaintiff to an illegal
3 detention, arrest, seizure, retaliation for exercise of free speech, free press, or petition for redress
4 of grievances, use of force, or deprivation of any of the other rights enumerated herein, and to
5 use reasonable care to avoid engaging in biased policing or racial and political affiliation
6 profiling.

7 131. In doing the things herein alleged, defendants breached the applicable duty of care by
8 acting unreasonably, carelessly, negligently and/or recklessly.

9 132. As a direct and proximate result of defendants' conduct, Plaintiff suffered injuries and
10 damages as set forth above in the separately enumerated primary claims.

11 133. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
12 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
13 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
14 and deter such conduct.

15 **COUNT 12**

16 134. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
17 allegations of said paragraphs as though expressly set forth at length at this point.

18 135. Failure to intervene under the Nevada Constitution, U.S. Constitution, federal statute,
19 state statute, and common law, against all individual defendants.

20 136. The factual allegations show that the individual defendants had a 1) a realistic
21 opportunity to intervene to prevent harm; 2) a reasonable person in the defendant's position
22 would have known that Plaintiff's constitutional rights were being violated; and 3) the
23 defendants did not take reasonable steps to intervene.

1 137. Plaintiff was harmed as a direct and proximate result by violations and those harms
2 are enumerated in the separate claims for each primary claim.

3 138. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
4 conscious disregard for his rights and safety entitles Plaintiff to punitive damages and penalties
5 allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish and deter
6 such conduct.

7 **COUNT 13**

8 139. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the
9 allegations of said paragraphs as though expressly set forth at length at this point.

10 140. Civil conspiracy under the Nevada Constitution, U.S. Constitution, federal statute,
11 state statute, and common law, against all individual defendants.

12 141. The totality of the circumstances show that 1) there was an agreement between
13 defendants to violate Plaintiff's civil rights, defame him, and batter him; 2) there was a single
14 plan that the defendants shared; 3) that defendants committed at least one overt act in furtherance
15 of the conspiracy; and 4) Plaintiff was harmed by that conspiracy. Discovery will show further
16 proof.

17 142. Plaintiff was harmed, as a direct and proximate result, by the underlying crimes as
18 enumerated in the separate primary claims.

19 143. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
20 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
21 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
22 and deter such conduct.

COUNT 14

144. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the allegations of said paragraphs as though expressly set forth at length at this point.

145. Abuse of process under the Nevada Constitution, U.S. Constitution, federal statute, state statute, and common law, against Bourque, Sandoval, Torrey, Dingle, Sorenson, Doolittle, and Does 1 to 5.

146. The factual allegations show that defendants 1) initiated process to achieve an unlawful purpose; and 2) denying Plaintiff due process.

147. Plaintiff was harmed as a direct and proximate result by being deprived of his liberty for a period of time, being unable to do what he wanted or go where he wanted. Plaintiff further had to initiate a costly defense. Plaintiff's daily life was disrupted by the defendants as a direct and proximate result. Plaintiff was harmed as a direct and proximate result by having to refrain from exercising his rights, the government suppressing dissent, and loss of public participation. Plaintiff also experienced, as a direct and proximate result, the negative psychological and emotional impact of being battered and the chilling effect that this had on the future exercise of his rights for fear of further abuse. Plaintiff was harmed as a direct and proximate result by being deprived of his liberty for a period of time, being unable to do what he wanted or go where he wanted.

148. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish and deter such conduct.

COUNT 15

149. Plaintiff refers to paragraphs 1-73 of this Complaint and incorporates by reference the allegations of said paragraphs as though expressly set forth at length at this point.

150. Monell Failure to Train under the Nevada Constitution, U.S. Constitution, federal statute, state statute, and common law, against Torrey, LVMPD and the state of Nevada.

151. Defendant failed to properly screen, hire, train, instruct, monitor, supervise, evaluate, investigate, discipline and/or terminate defendants Bourque, Sandoval, Torrey, Dingle, Sorenson, Doolittle, Citco, Torrey, and Does 1 to 5, with deliberate indifference to Plaintiff's constitutional rights in the following manner:

a. To fail to institute, require, and enforce proper and adequate training, supervision, policies, and procedures concerning engaging in defamation in retaliation of those exercising their First Amendment rights;

b. To fail to institute, require, and enforce proper and adequate training, supervision, policies, and procedures within the government entity concerning the fear experienced by people of different minorities (including cop watching activists) when interacting with government employees in light of well documented, highly publicized, and disproportionate amount of discrimination committed by government employees against said groups, and the tactics that employees should employ in dealing with said groups in light of such fears (especially where, as here, they have been explicitly made known to the employees);

c. To ignore and/or fail to properly investigate, supervise, discipline, and/or terminate employees who have engaged in unlawful or unconstitutional activities.

152. The totality of the circumstances of LVMPD and the state of Nevada's consistent misconduct including against Plaintiff are indicative of a Monell failure to train liability.

1 Discovery will show further proof.

2 153. Plaintiff was harmed as a direct and proximate result by violations and those harms
3 are enumerated in the separate claims for each primary claim.

4 154. Defendants' malicious, oppressive, and despicable conduct, carried out in a full and
5 conscious disregard for Plaintiff's rights and safety entitles Plaintiff to punitive damages and
6 penalties allowable under 42 U.S.C. § 1983 and Nevada law in an amount sufficient to punish
7 and deter such conduct. Punitive damages are not sought against the state of Nevada.

8 **PRAYER**

9 Plaintiff prays for damages as follows:

10 a. For compensatory damages in an amount according to proof;

11 b. For punitive damages in the amount of \$5,000,000 or in an amount sufficient to punish
12 Defendants conduct and deter similar conduct in the future, pursuant to 42 U.S.C. Section 1983
13 (no punitive damages are sought against Defendant Nevada);

14 c. For all applicable statutory penalties;

15 d. For attorneys' fees pursuant to 42 U.S.C. Section 1988;

16 e. For costs of suit;

17 f. For such other and further relief as the Court deems just and proper.

18 **DEMAND FOR JURY TRIAL**

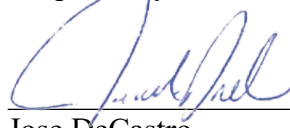
19 Plaintiff hereby demands a trial by jury.

20 **DECLARATION OF JOSE DECASTRO**

21 I declare under penalty of perjury, that the foregoing is true and correct.
22
23

1 DATED: November 27, 2023

Respectfully submitted,

2 

3 Jose DeCastro
4 1258 Franklin St.
5 Santa Monica, CA 90404
6 chille@situationcreator.com
7 (310) 963-2445
8 *Pro Se*